

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

**MANDRIEZ SPIVEY,**

**Petitioner,**

**V.**

**FEDERAL PROBATION,**

**Respondent.**

**CIVIL ACTION NO. 5:20-cv-228 (MTT)**

## ORDER

Petitioner Mandriez Spivey, moves to dismiss his 28 U.S.C. § 2254 petition.

Doc. 9. Spivey states that he “would like to withdraw this case from Federal Courts in order to ... file it in the State Courts.” *Id.* Petitioner’s habeas petition is no longer pending in this Court. The Court entered final judgment on August 3, 2020. Doc. 6. The Court dismissed Spivey’s § 2254 petition for lack of jurisdiction. Doc. 5. This dismissal is without prejudice to Spivey’s rights to refile his action in any other court. Fed. R. Civ. P. 41(b) (a dismissal for lack of jurisdiction does not operate as an adjudication on the merits); Rule 12, Rules Governing § 2254 Cases in the United States District Courts (the Federal Rules of Civil Procedure apply to § 2254 actions when they are not inconsistent with statutory provisions or specific habeas rules).

Accordingly, Spivey's motion to dismiss (Doc. 9) is **DENIED as moot.**

**SO ORDERED**, this 2nd day of October, 2020.

S/ Marc T. Treadwell  
MARC T. TREADWELL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT